

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

MAXELL, LTD.,

*Plaintiff,*

v.

APPLE INC.,

*Defendant.*

Case No. 5:19-cv-0036-RWS

**JURY TRIAL DEMANDED**

**DOCKET CONTROL ORDER**

It is hereby **ORDERED** that the following schedule of deadlines is in effect until further order of this Court:

<b>3 DAYS after conclusion of Trial</b>	Parties to file <b>Motion to Seal Trial Exhibits</b> , if they wish to seal any highly confidential exhibits.  <b>EXHIBITS: See Order Regarding Exhibits below.</b>
October 26, 2020  Court designated date – not flexible without good cause - Motion Required	<b>9:00 a.m. JURY TRIAL before Judge Robert W. Schroeder III, Texarkana, Texas.</b>  For planning purposes, parties shall be prepared to start the evidentiary phase of trial immediately following jury selection.
October 26, 2020  Court designated date – not flexible without good cause - Motion Required	<b>9:00 a.m. JURY SELECTION before Judge Robert W. Schroeder III, Texarkana, Texas.</b>
October 6, 2020	<b>10:00 a.m. PRETRIAL CONFERENCE before Judge Robert W. Schroeder III, Texarkana, Texas.</b>  Discuss trial logistics and <i>voir dire</i> procedure. Resolve any pending motions or objections.  Lead trial counsel must attend the pretrial conference.

September 29, 2020 [1 week before pretrial]	<b>File a Notice of Time Requested for (1) voir dire, (2) opening statements, (3) direct and cross examinations, and (4) closing arguments.</b>
September 29, 2020 [1 week before pretrial]	<b>File Responses to Motions <i>in Limine</i>.</b>
September 22, 2020 [2 weeks before pretrial]	<b>File Motions <i>in Limine</i> and pretrial objections.</b>  The parties are <b>ORDERED</b> to meet and confer to resolve any disputes before filing any motion <i>in limine</i> or objection to pretrial disclosures.
September 22, 2020 [2 weeks before pretrial]	<b>File Joint Final Pretrial Order, Joint Proposed Jury Instructions with citation to authority and Form of the Verdict for jury trials.</b>  Parties shall use the pretrial order form on Judge Schroeder's website.  Proposed Findings of Fact and Conclusions of Law with citation to authority for issues tried to the bench.
September 15, 2020 3 weeks before pretrial]	Exchange Objections to Rebuttal Deposition Testimony.
September 8, 2020 [4 weeks before pretrial]	<b>Notice of Request for Daily Transcript or Real Time Reporting of Court Proceedings due.</b>  If a daily transcript or real time reporting of court proceedings is requested for trial or hearings, the party or parties making said request shall file a notice with the Court.
September 8, 2020 [4 weeks before pretrial]	Exchange Rebuttal Designations and Objections to Deposition Testimony.  For rebuttal designations, cross examination line and page numbers to be included.

	In video depositions, each party is responsible for preparation of the final edited video in accordance with their parties' designations and the Court's rulings on objections.
August 25, 2020 [6 weeks before pretrial]	Exchange Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof.  Video and Stenographic Deposition Designation due. Each party who proposes to offer deposition testimony shall serve a disclosure identifying the line and page numbers to be offered.
September 15, 2020  Court designated date – not flexible without good cause - Motion Required	<b>10:00 a.m. HEARING ON ANY REMAINING DISPOSITIVE MOTIONS (INCLUDING <i>DAUBERT</i> MOTIONS) before Judge Robert W. Schroeder III, Texarkana, Texas.</b>
June 9, 2020  Court designated date – not flexible without good cause – Motion Required	<b>Any Remaining Dispositive Motions<sup>1</sup> due from all parties and any other motions that may require a hearing (including <i>Daubert</i> motions).</b>  Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u>  For each motion filed, the moving party shall provide the Court with one (1) copy of the completed briefing (opening motion, response, reply, and if applicable, surreply), excluding exhibits, in a three-ring binder appropriately tabbed. All documents shall be double-sided and must include the CM/ECF header. These copies shall be delivered to Judge Schroeder's chambers in Texarkana as soon as briefing has completed.  <b>Respond to Amended Pleadings.</b>
June 2, 2020	Parties to Identify Rebuttal Trial Witnesses.

<sup>1</sup> *I.e.* any motions on issues other than indefiniteness.

[1 week before dispositive motions]	
May 26, 2020 [2 weeks before dispositive motions]	Parties to Identify Trial Witnesses; Amend Pleadings (after <i>Markman</i> Hearing).  It is not necessary to file a Motion for Leave to Amend before the deadline to amend pleadings. It is necessary to file a Motion for Leave to Amend after the deadline. However, except as provided in Patent Rule 3-6, if the amendment would affect infringement contentions or invalidity contentions, a motion must be made pursuant to Patent Rule 3-6 irrespective of whether the amendment is made prior to this deadline.
May 26, 2020 [2 weeks before dispositive motions]	Expert Discovery Deadline.
May 5, 2020 [5 weeks before dispositive motions]	Parties designate rebuttal expert witnesses (non-construction issues), rebuttal expert witness reports due. Refer to Local Rules for required information.  If, without agreement, a party serves a supplemental expert report after the rebuttal expert report deadline has passed, the serving party must file notice with the Court stating service has occurred and the reason why a supplemental report is necessary under the circumstances.
April 7, 2020 [9 weeks before dispositive motions]	Parties with burden of proof designate expert witnesses (non-construction issues). Expert witness reports due. Refer to Local Rules for required information.
April 7, 2020 [9 weeks before dispositive motions]	Final Election of Asserted Prior Art.
March 31, 2020	Fact discovery deadline.

[10 weeks before dispositive motions]	
March 17, 2020 [12 weeks before dispositive motions]	Final Election of Asserted Claims.
January 29, 2020 [3 weeks after Markman hearing]	Comply with P.R. 3-7. (Opinion of Counsel Defenses)
January 8, 2020 Court designated date – not flexible without good cause – Motion Required	<b>Markman Hearing and hearing on any Motion for Summary Judgment of Indefiniteness at 10:00 a.m. before Judge Robert W. Schroeder III, Texarkana, Texas.</b>
December 20, 2019 [2 weeks before Markman hearing]	<b>P.R. 4-5(d) Chart due.</b>  The parties are to meet and confer and jointly submit a claim construction chart on computer disk in Word format listing each party's proposed construction for each of the terms to be addressed at the <i>Markman</i> hearing, including any terms purported to be indefinite. The parties should <u>prioritize</u> and list the terms <u>in order of most importance</u> ; the Court will address the terms in the prioritized order presented in the claim construction chart.
December 16, 2019 [~3 weeks before Markman hearing]	Parties to file a notice with the Court stating the estimated amount of time requested for the <i>Markman</i> Hearing. The Court will notify the parties if it is unable to accommodate this request.  <b>Comply with P.R. 4-5(c)</b> - Reply brief and supporting evidence regarding claim construction due. Plaintiff is to provide the Court with one (1) copy of the completed <i>Markman</i> briefing in its entirety (opening brief, response, and reply) and exhibits in a three-ring binder appropriately tabbed. All documents SHALL be double-sided and must include the CM/ECF header. These copies shall be delivered to Judge Schroeder's chambers in Texarkana as soon as briefing has completed.

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